

Dorsey renewed a note previously given to Mrs. Pierce, when he told the latter that he could not ascertain the amount of other moneys which he owed her without a reference to his books, which were at Dr. Worthington's. He came over a few days afterwards for the purpose of settling the open account, but stated that he had mistaken the key and could not get his books. He promised to go to Baltimore to see Mrs. Pierce and give his notes for the amount, but he never saw Mrs. Pierce afterwards. These moneys she had given him an order on Mr. Charles F. Mayer to receive for her.

The other testimony is sufficiently stated in the opinion of the Chancellor delivered upon the hearing of this petition.]

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THE CHANCELLOR :

This case is submitted upon the petition of John Warfield of Joshua, and others, filed on the 22d of February last, the answer thereto of Margaret A. Dorsey, administratrix of Rinaldo W. Dorsey, and the proof in relation to the claim set up by the petitioners, taken under the order passed upon said petition.

The claim of John Warfield seems to me to be sufficiently proved. A father is bound to educate and maintain his infant child, and if another person performs this natural duty for him with his knowledge and consent, the father is liable to pay a reasonable sum to such person. The proof is conclusive to show that John Warfield did board the son of Rinaldo W. Dorsey, and that he knew and approved of it. The Statute of Frauds has no application to such a case. The debt is the debt of the father and not of the son, and therefore it is not an attempt to charge him with the debt of a third person.

But limitations are pleaded, and this defence covers and defeats a large part of the item of board. The charge for board commences on the 13th of September, 1839, and ends on the 13th of May, 1850. Limitations, therefore, bars the whole charge except that portion which accrued within three years from the time of filing the petition on the 22d of February, 1853. But with regard to the heirs at law, the operation of the statute is to be suspended for the space of eighteen months